

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

PREBLE – RISH HAITI, S.A.,

Garnishor,

V.

BB Energy USA, LLC

Garnishee,

**REPUBLIC OF HAITI, BUREAU DE
MONÉTISATION DES PROGRAMMES
D'AIDE AU DÉVELOPPEMENT,**

Judgment-Debtors.

C.A. No. _____

[Related Cases: 4:21-cv-01953]
4:22-mc-00304

APPLICATION FOR WRIT OF GARNISHMENT AND TURNOVER ORDER

Plaintiff Preble-Rish Haiti, S.A. (“PRH”) hereby files this Application for Writ of Garnishment and Turnover Order (“Application”) brought in aid of judgment as follows:

1. PRH is a company organized under the laws of Haiti with a principal place of business located at Hexagon Building, 5th Fl, Angle Rues Clerveaux and Darguin, Pétion Ville, Haiti.

2. Garnishee BB Energy USA, LLC (“BB Energy”) is a company formed under the laws of Delaware with its principal place of business located at 2229 San Felipe Street, Suite 1075, Houston, Texas 77019. BB Energy may be served in Texas through its registered agent, CT Corporation System, 1999 Bryan St., Ste. 900, Dallas, TX 75201, or by personal service upon its manager, Vitor Bruno, at BB Energy’s place of business, at Bruno’s residence of 5025 Augusta Street, Houston, Texas 77007, or wherever he may be found.

3. This action is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1332 because there is complete diversity among the parties, and the amount in controversy exceeds \$75,000, exclusive of interest and costs. The Court further has jurisdiction under 28 U.S.C. § 1963 because this action is brought to enforce a federal judgment.

4. On February 3, 2022, in the cause styled *Preble-Rish Haiti S.A. v. Republic of Haiti and Bureau De Monétisation Des Programmes D'aide Au Développement*, Civil Action No. 1:21-cv-6704, in the Southern District of New York, judgment was rendered in favor of PRH against Republic of Haiti and Bureau De Monétisation Des Programmes D'aide Au Développement (collectively, “BMPAD” or “Judgment-Debtors”). In its related Opinion and Order, PRH was granted leave to immediately register the judgment in the Southern District of Texas for good cause shown, and the Judgment was registered in the Southern District of Texas on February 15, 2022, in Civil Action No. 4:22-mc-00304.¹ Pursuant to the Partial Final Arbitration Award confirmed into the Judgment at issue, BMPAD was directed to post the amount of \$23,043,429.79 as security pending completion of New York Arbitration. This Judgment is valid and subsisting,² and it is wholly unsatisfied.

5. The last known address for Republic of Haiti is 5A, Delmas 60, Musseau, Port-au-Prince, Haïti.

6. The last known address for Bureau De Monétisation Des Programmes D'aide Au Développement is No. 12 Boulevard Harry Truman, Port-au-Prince, Haïti.

¹ A true and correct copy of the Clerk’s Certification of Judgment to be Registered in Another District, as well as certified copies of the Amended Judgment, the relevant Orders by the New York district court, and a copy of the arbitral award that was confirmed by the New York court (as filed in the local judgment registration action, Civil Action No. 4:22-mc-00304) are all attached hereto as Exhibit 1.

² A judgment is valid and subsisting “from and after the date it is signed, unless a supersedeas bond shall have been approved and filed[.]” Tex. R. Civ. P. 657. Here, BMPAD has failed to post any bond to stay enforcement of the Judgment.

7. Within PRH's knowledge, the Judgment-Debtors do not possess sufficient non-exempt property in Texas subject to execution to satisfy the above-described judgment.

8. PRH has reason to believe, and does believe, that Garnishee BB Energy, located in Houston, Texas, has funds, credits and/or other assets in the amount of no less than \$4.4M (and potentially a larger amount) belonging to Judgment-Debtors. PRH respectfully moves the Court to issue a writ of garnishment and direct Garnishee BB Energy to turnover to the Court's registry all funds, credits and/or other assets belonging to Judgment-Debtors in its possession up to \$23,043,429.79. Upon issuance of a final award on the merits in the New York Arbitration, if in PRH's favor, PRH will seek to confirm that award and enforce the anticipated money judgment against the garnished amounts in the Court's registry.

9. This garnishment and request for turnover order is not sought to injure, but is instead brought in good faith in furtherance of PRH's unsatisfied Judgment.

10. This application is supported by the Declaration of Keith B. Letourneau, attorney for PRH, who is authorized to act on its behalf in the above-referenced cause.³

11. PRH's request for relief is made pursuant to Federal Rules of Civil Procedure 70 and 71, and in compliance with Texas Civil Practice & Remedies Code §§ 31.002⁴ and 63.001.⁵

³ A true and correct copy of the Declaration of Keith B. Letourneau is attached hereto as Exhibit 2.

⁴ Tex. Civ. Prac. & Rem. Code § 31.002 provides that "[a] judgment creditor is entitled to aid from a court of appropriate jurisdiction ... through injunction or other means in order to reach property to obtain satisfaction on the judgment if the judgment debtor owns property, including present or future rights to property, that is not exempt from attachment, execution, or seizure for the satisfaction of liabilities."

⁵ Tex. Civ. Prac. & Rem. Code § 63.001(3) provides that "[a] writ of garnishment is available if ... a plaintiff has a valid, subsisting judgment and makes an affidavit stating that, within the plaintiff's knowledge, the defendant does not possess property in Texas subject to execution sufficient to satisfy the judgment."

WHEREFORE, PRH requests that a writ of garnishment be issued, and that PRH have judgment against Garnishee to satisfy the prior judgment against Judgment-Debtors as provided by law, and such other and further relief to which PRH may be entitled.

Dated: February 16, 2022
Houston, Texas

Respectfully submitted,

/s/ Keith B. Letourneau
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